

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

KIMBERLY SUE EFAW,

Petitioner,

v.

**Civil Action No. 1:07cv125
Criminal Action No. 1:06cr48(1)
(Judge Keeley)**

UNITED STATES OF AMERICA,

Respondent.

ORDER DIRECTING RESPONDENT TO ANSWER § 2255 PETITION

On September 17, 2007, the *pro se* petitioner filed a Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. This case is before the undersigned for an initial review and report and recommendation pursuant to LR PL P 83.15, et seq. and Standing Order No. 4.

Pursuant to Rule 4 of the Rules Governing § 2255 Proceedings in the United States District Courts, the undersigned has made a preliminary review of the motion and finds that summary dismissal is not warranted at this time. Accordingly, the Respondent has **thirty (30) days** from the date of this Order in which to file an answer to Petitioner's § 2255 motion. Respondents' answer shall comply with Rule 5 of the Rules Governing Section 2255 proceedings. **In addition, to the extent that the conviction in this case rests upon a guilty plea, the Respondent is directed to provide the undersigned with copies of the transcripts of the Rule 11 hearing, transcripts of the sentencing hearing, and a copy of the plea agreement.**

Petitioner has **thirty (30) days** after the date a response is filed to file any reply that she may

have. Pursuant to Rule 7 of the Federal Rules of Civil Procedure, no other pleadings will be accepted without the express order of the court upon a timely motion duly made.¹

IT IS SO ORDERED.

The Clerk is directed to send a copy of this Order and a copy of the petition to the United States Attorney for the Northern District of West Virginia, P.O. Box 591, Wheeling, WV 26003. The Clerk shall also send a hard copy of this Order and the petition to Assistant United States Attorney Shawn Angus Morgan, at 320 W. Pike Street, Suite 300, Clarksburg, WV 26302. In addition, Ms. Morgan shall also receive electronic copies of this Order.

DATED: September 20, 2007.

/s *John S. Kaull*

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE

¹ “There shall be a complaint and an answer . . . [n]o other pleading shall be allowed, except that the court may order a reply to an answer . . .” Fed.R.Civ.P. 7(a).